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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Art Unit: 1648
CLASSEN, John Barthelow	)	Examiner: LUCAS, Z.
Serial No.: 08/591,651	)	Washington, D.C.
Filed: February 12, 1996	)	July 28, 2004
For: METHOD AND COMPOSITION FOR AN EARLY VACCINE TO PROTECT AGAINST BOTH...	)	Docket No.: CLASSEN=1A
	)	Confirmation No.: 9417

ELECTION WITH TRAVERSE

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S i r :

In response to the restriction requirement mailed June 18, 2004, Applicants respond as follows.

1. Since prosecution has been reopened, certain papers which were previously submitted and denied entry should be entered as a matter of right:

(1) the October 18, 2002 declaration, with its 19 exhibits

(2) the December 12, 2002 IDS and attached references.

We would like to discuss with the Examiner the handling of substitute amendment "b" after final rejection, filed June 21, 2002 (i.e., under the old rules).

2. An amendment is filed on even date herewith, presenting new composition (immunogenic agent) claims. We believe that these claims are properly grouped with the kit claims of group I.

The kit claims essentially recite (1) one or more immunogens, and (2) a label (e.g., directions for use). They thus have a clear relationship to the new claims which recite agents which comprise one or more immunogens.

Original claim 19 was an immunogenic agent claim and was

examined along with kit claims 25, 27, 34-47, 49 and 55 in the office action of October 2, 1998. Claim 19 remained pending in this case until February 21, 2002, when it was cancelled to narrow the issues for appeal.

Nonetheless, the record establishes that immunogenic agent claims can be examined alongside kit claims without burdening the examiner.

In a telephone interview conducted July 19, 2004, the Examiner conceded that if immunogenic agent claims had been pending at the time of the restriction, they would have been grouped with the kit.

3. Assuming that the new composition claims are grouped with the kit claims of group I, Applicants elect that group, with traverse.

If they are not so grouped, but rather are assigned to a new group of their own, Applicants wish to elect that new group, with traverse.

If they are grouped into more than one new group, it is respectfully requested that applicants be given the opportunity to elect which group to prosecute.

If they are not examined for restriction purposes at all, then Applicant elect group I with traverse.

5. In response to the demand to elect one of species (A)-(H), Applicants elect species (B) (bacterial immunogen) with traverse.

6. In response to the demand to elect one of species (I)-(CCC), Applicants elect species (L) (meningitis). Bacterial meningitis is caused by meningococci.

7. In response to the demand to elect one of species (1)-(7), Applicants elect species (1) (diabetes).

8. With regard to the species restrictions pertaining to the nature of the immunogen, while there are several claims which require use of a particular immunogen (e.g., claim 30), and several claims which require use of at least one immunogen which is not a particular immunogen (e.g., claim 5), the claims are

open in form, and there are no claims which absolutely exclude use of a bacterial immunogen (elected species B) or use of a meningitis immunogen (elected species L). Hence, all pending claims are generic to or otherwise read upon these elected species.

Likewise, with regard to the species restriction pertaining to the chronic immune mediated disorder, while claims 35, 78-83, 85 to CIMDs other than diabetes, they do not exclude additional use against the elected species diabetes (1). Hence, all pending claims are generic to our otherwise read upon these elected species.

9. The claims of groups II-IV have been cancelled; the group restriction is traversed solely to preserve the right to traverse the disposition of the new claims for restriction purposes.

10. The species restrictions are traversed because one or more generic claims are allowable.

Respectfully submitted,

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